

الْبَابُ الثَّالِثُ

مَنْعُ قَتْلِ النِّسَاءِ وَالْوِلْدَانِ وَالشُّيُوخِ وَالرُّهْبَانِ

CHAPTER THREE

THE PROHIBITION OF KILLING
WOMEN, CHILDREN, THE ELDERLY
AND PRIESTS

١/٢٥. عَنْ ابْنِ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا قَالَ: وَجَدْتُ امْرَأَةً مَقْتُولَةً فِي بَعْضِ مَغَازِي رَسُولِ اللَّهِ ﷺ فَنَهَى رَسُولُ اللَّهِ ﷺ عَنْ قَتْلِ النِّسَاءِ وَالصَّبِيَّانِ.
مُتَّفَقٌ عَلَيْهِ.

25/1. 'Abd Allāh b. 'Umar رضي الله عنهما said:

"A woman was found slain in one of the expeditions. Upon this Allāh's Messenger ﷺ forbade the killing of women and children."¹

Agreed upon by al-Bukhārī and Muslim.

٢/٢٦. وَفِي رِوَايَةٍ طَوِيلَةٍ عَنْ يَزِيدَ بْنِ هُرْمُزٍ فَمِنْهَا، فَكَتَبَ إِلَيْهِ (أَيُّ النَّجْدَةِ) ابْنُ عَبَّاسٍ فَقَالَ: وَإِنَّ رَسُولَ اللَّهِ ﷺ لَمْ يَكُنْ يَقْتُلُ الصَّبِيَّانَ فَلَا تَقْتُلِ الصَّبِيَّانَ.
رَوَاهُ مُسْلِمٌ.

26/2. Yazīd b. Hurmuz narrated in a detailed report:

"'Abd Allāh b. 'Abbās wrote in reply to a letter from Najda: 'Indeed, the Messenger of Allāh ﷺ did not kill children; so you must not kill them either.'"²

¹ Set forth by •al-Bukhārī in *al-Ṣaḥīḥ: Kitāb al-jihād wa al-siyar* [The Book of Jihad and Battles], chapter: "Killing Women in War," 3:1098 §2852. •Muslim in *al-Ṣaḥīḥ: Kitāb al-jihād wa al-siyar* [The Book of Jihad and Battles], chapter: "The Unlawfulness of Killing Women and Children during War," 3:1364 §1744. •Aḥmad b. Ḥanbal in *al-Musnad*, 2:22 §4739. •al-Tirmidhī in *al-Sunan: Kitāb al-siyar* [The Book of Military Expeditions], chapter: "What Has Come to Us about the Killing of Women and Children," 4:136 §1569. •Ibn Mājah in *al-Sunan: Kitāb al-jihād* [The Book of Jihad], chapter, "Indiscriminate night attacks and killing women and children," 2:947 §2841. •al-Nasā'ī in *al-Sunan al-kubrā*, 5:185 §8618. •al-Dārimī in *al-Sunan*, 2:293 §2462. •Ibn Hibbān in *al-Ṣaḥīḥ*, 1:344 §135.

² Set forth by •Muslim in *al-Ṣaḥīḥ: Kitāb al-jihād wa al-siyar* [The Book of

Reported by Muslim.

٣/٢٧. وَفِي رِوَايَةٍ رَبَاحِ بْنِ رَيْبَعٍ رَضِيَ اللَّهُ عَنْهُ قَالَ: كُنَّا مَعَ رَسُولِ اللَّهِ ﷺ فِي غَزْوَةٍ، فَرَأَى النَّاسَ مُجْتَمِعِينَ عَلَى شَيْءٍ، فَبَعَثَ رَجُلًا فَقَالَ: انْظُرْ عَلَامَ اجْتَمَعَ هَؤُلَاءِ؟ فَجَاءَ فَقَالَ: عَلَى امْرَأَةٍ قَتِيلٍ، فَقَالَ: مَا كَانَتْ هَذِهِ لِيُقَاتَلَ. قَالَ: وَعَلَى الْمُقَدَّمَةِ خَالِدِ بْنِ الْوَلِيدِ، فَبَعَثَ رَجُلًا فَقَالَ: قُلْ لِحَالِدٍ: لَا يَقْتُلَنَّ امْرَأَةً وَلَا عَسِيفًا.

وفي رواية: لَا تَقْتُلَنَّ ذُرِّيَّةً وَلَا عَسِيفًا.

رَوَاهُ أَحْمَدُ وَأَبُو دَاوُدَ وَاللَّفْظُ لَهُ وَابْنُ مَاجَهَ وَالنَّسَائِيُّ وَابْنُ حِبَّانَ وَابْنُ أَبِي شَيْبَةَ وَأَبُو يَعْلَى وَالْحَاكِمُ.

27/3. According to Rabāh b. Rabīʿ رَضِيَ اللَّهُ عَنْهُ:

"We were with Allah's Messenger ﷺ in one of the battle expeditions, and he saw some people gathered around something. He sent a man out, saying: 'Go and see what they are gathering around.' The man returned and informed him, saying: 'They are gathering around a slain woman.' The Prophet ﷺ said: 'She was not amongst those who fight!' The head of the group was Khālid b. al-Walid, so the Prophet sent a man to go and inform him: 'Neither an [idolatrous] woman nor a hired servant should be killed.'"¹

In another report, it is stated: "neither [idolatrous]

Jihad and Battles], chapter: "Women participants in jihid to be given a prize but not a regular share in the booty, and prohibition to kill children of the enemy," 3:1444 §1812.

¹ Set forth by •Aḥmad b. Ḥanbal in *al-Musnad*, 3:488 §16035. •Abū Dāwūd in *al-Sunan: Kitāb al-jihād* [The Book of Jihad], chapter: "The Killing of Women," 3:53 §2669. •Ibn Mājah in *al-Sunan: Kitāb al-jihād* [The Book of Jihad], chapter: "Making a sudden raid at night and the killing women and children," 2:948 §2842. •al-Nasā'ī in *al-Sunan al-kubrā*, 5:186–187 §§8625, 8627. •Ibn ʿabbān in *al-Ṣaḥīḥ*, 11:110 §4789. •Ibn Abī Shayba in *al-Muṣannaf*, 6:482 §33117. •Abū Ya'la in *al-Musnad*, 3:115–116 §1546. •al-Ḥākim in *al-Mustadrak*, 2:133 §2565. •al-Ṭabarānī in *al-Mu'jam al-kabīr*, 4:10 §3489. •al-Bayhaqī in *al-Sunan al-kubrā*, 9:82 §17883.

children nor a hired servant should be killed.”

Reported by Aḥmad, Abū Dāwūd (the wording is his), Ibn Mājah, al-Nasā’ī, Ibn ibbān, Ibn Abī Shayba, Abū Ya’lā and al- ākim.

٤/٢٨. عَنْ أَنَسٍ رَضِيَ اللَّهُ عَنْهُ، كَانَ رَسُولُ اللَّهِ ﷺ إِذَا غَزَا قَوْمًا لَمْ يُغَزْ حَتَّى يُضْبِحَ.
رَوَاهُ الْبُخَارِيُّ وَأَحْمَدُ وَابْنُ جَبَّانَ وَأَبُو يَعْلَى.

28/4. According to Anas b. Mālik رَضِيَ اللَّهُ عَنْهُ:

“Allah’s Messenger ﷺ would not attack any nation until daybreak.”¹

Reported by al-Bukhārī, Aḥmad, Ibn ibbān and Abū Ya’lā.

٥/٢٩. وَفِي رَوَايَةٍ عَنْهُ: أَنَّ النَّبِيَّ ﷺ خَرَجَ إِلَى خَيْبَرَ فَجَاءَهَا لَيْلًا. وَكَانَ إِذَا جَاءَ قَوْمًا بَلِيلٍ لَا يُغِيرُ عَلَيْهِمْ حَتَّى يُضْبِحَ.
رَوَاهُ الْبُخَارِيُّ وَالتِّرْمِذِيُّ وَالنَّسَائِيُّ وَابْنُ جَبَّانَ.

29/5. Anas b. Mālik رَضِيَ اللَّهُ عَنْهُ also said:

“The Prophet ﷺ set out towards Khaybar. He arrived there at night. When he came to a people [a force] at night, he would not attack them until daybreak.”²

Reported by al-Bukhārī, al-Tirmidhī, al-Nasā’ī and Ibn ibbān.

¹ Set forth by •al-Bukhārī in *al-Ṣaḥīḥ: Kitāb al-jihād wa al-siyar* [The Book of Struggle and Military Expeditions], chapter: “The Prophet’s summons to Islam and Prophethood,” 3:1077 §2784. •Aḥmad b. anbal in *al-Musnad*, 3:159 §12639. •Abū Ya’lā in *al-Musnad*, 6:431 §3804. •Ibn ibbān in *al-Ṣaḥīḥ*, 11:49 §4745.

² Set forth by •al-Bukhārī in *al-Ṣaḥīḥ: Kitāb al-jihād wa al-siyar* [The Book of Struggle and Military Expeditions], chapter: “The Prophet ﷺ calling people to Islam and Prophethood,” 3:1077 §2785. •al-Tirmidhī in *al-Sunan: Kitāb al-siyar* [The Military Expeditions], chapter: “Waging night offences and indiscriminate nocturnal attacks,” p. 335,” 4:121 §1550. •al-Nasā’ī in *al-Sunan al-kubrā*, 5:178 §8598. •Ibn ibbān in *al-Ṣaḥīḥ*, 11:51 §4746.

٦/٣٠. عَنِ الْأَسْوَدِ بْنِ سَرِيعٍ رضي الله عنه قَالَ: كُنَّا فِي غَزَاةٍ فَأَصَبْنَا ظَفَرًا وَقَتَلْنَا مِنَ الْمُشْرِكِينَ حَتَّى بَلَغَ بِهِمُ الْقَتْلُ إِلَى أَنْ قَتَلُوا الذَّرِّيَّةَ فَبَلَغَ ذَلِكَ النَّبِيَّ ﷺ فَقَالَ: مَا بَالُ أَقْوَامٍ بَلَغَ بِهِمُ الْقَتْلُ إِلَى أَنْ قَتَلُوا الذَّرِّيَّةَ؟ أَلَا، لَا تُقَتِّلَنَّ ذُرِّيَّةً! أَلَا، لَا تُقَتِّلَنَّ ذُرِّيَّةً! قِيلَ: لِمَ، يَا رَسُولَ اللَّهِ، أَلَيْسَ هُمْ أَوْلَادُ الْمُشْرِكِينَ؟ قَالَ: أَوْ لَيْسَ خِيَارُكُمْ أَوْلَادُ الْمُشْرِكِينَ؟

وفي رواية زاد: فَقَالَ رَجُلٌ: يَا رَسُولَ اللَّهِ، إِنَّمَا هُمْ أَبْنَاءُ الْمُشْرِكِينَ. فَقَالَ: خِيَارُكُمْ أَبْنَاءُ الْمُشْرِكِينَ. أَلَا، لَا تُقَتِّلَنَّ الذَّرِّيَّةَ! كُلُّ نَسَمَةٍ تُوَلَّدَ عَلَى الْفِطْرَةِ، حَتَّى يُعْرَبَ عَنْهَا لِسَانُهَا، فَأَبْوَاهَا يَهُودَانِيَا وَيَنْصَرَانِيَا.

رَوَاهُ أَحْمَدُ وَالنَّسَائِيُّ وَالِدَارِمِيُّ وَابْنُ أَبِي شَيْبَةَ. وَقَالَ الْحَاكِمُ: هَذَا حَدِيثٌ صَحِيحٌ عَلَى شَرْطِ الشَّيْخَيْنِ، وَقَالَ الْهَيْثَمِيُّ: رَوَاهُ أَحْمَدُ بِأَسَانِيدَ وَبَعْضُ أَسَانِيدِ أَحْمَدَ رِجَالُهُ رِجَالُ الصَّحِيحِ.

30/6. Al-Aswad b. Sari^c رضي الله عنه narrated:

"We were once in a battle and gained the upper hand and killed many of the pagans, including some children. The news reached the Prophet ﷺ and he said, 'What is wrong with some people that they went so far as to kill children? Beware! Do not kill children at all! Beware! Do not kill children at all!' Someone asked: 'Why, O Messenger of Allah? Are they not the children of the pagans?' He replied: 'Are the best amongst you not from the children of pagans?'"¹

¹ Set forth by •Aḥmad b. Ḥanbal in *al-Musnad*, 3:435 §15626-15627 and in 4:24 §16342. •al-Nasā'ī in *al-Sunan al-kubrā: Kitāb al-siyar* [The Book of Military Expeditions], chapter: "The Prohibition of Killing the Children of the Pagans," 5:184 §8616. •al-Dārimī in *al-Sunan*, 2:294 §2463. •Ibn Abī Shayba in *al-Muṣannaf*, 6:484 §33131. •Ibn ibbān in *al-Ṣaḥīḥ*, 1:341 §132. •al-ākīm in *al-Mustadrak*, 2:133-134 §2566-2567. •al-Tabarānī in *al-Mu'jam al-kabīr*, 1:284 §829. •al-Shaybānī in *al-Āḥād wa al-Mathānī*, 2:375 §1160. •Abū Nu'aym in *Hilya al-Awliyā'*, 8:263. •al-Bayhaqī in *al-Sunan al-kubrā*, 9:77 §17868. Cited by •al-Haythamī in *Majma' al-zawā'id*, 5:316.

In another narration it reads: "A man said: 'O Messenger of Allah! They are only the children of the pagans!' He ﷺ replied: 'The best of you are the children of pagans. Beware! Children must not be killed. Every soul is born upon the primordial nature (*fiṭra*), until his language manifests it and his parents make him a Jew or a Christian.'"

Reported by Aḥmad, al-Nasā'ī, al-Dārimī and Ibn Abī Shayba. Al-Ḥākim said: "This is an authentic tradition in conformity with the stipulation of al-Bukhārī and Muslim." According to al-Haythamī: "Aḥmad narrated it from several chains and the sources of some chains are authentic."

٧/٣١. وَفِي رِوَايَةٍ عَنْهُ: فَقَالَ أَلَا أَنْ خِيَارَكُمْ أَبْنَاءَ الْمُشْرِكِينَ ثُمَّ قَالَ: أَلَا لَا تَقْتُلُوا ذُرِّيَّةَ أَلَا لَا تَقْتُلُوا ذُرِّيَّةً.

رَوَاهُ أَحْمَدُ وَالْبَيْهَقِيُّ.

31/7. Al-Aswad b. Sarī' has also reported that Allah's Messenger ﷺ said:

"Beware! The best among you were the sons of pagans. Beware! Do not kill children at all! Beware! Do not kill children at all!"¹

Reported by Aḥmad and al-Bayhaqī.

٨/٣٢. عَنْ ابْنِ عَبَّاسٍ قَالَ: كَانَ رَسُولُ اللَّهِ ﷺ إِذَا بَعَثَ جَيْوشَهُ قَالَ: اخْرُجُوا بِسْمِ اللَّهِ. تُقَاتِلُونَ فِي سَبِيلِ اللَّهِ مَنْ كَفَرَ بِاللَّهِ. لَا تَغْدِرُوا، وَلَا تَغْلُوا، وَلَا تُمْتَلُوا، وَلَا تَقْتُلُوا الْوِلْدَانَ، وَلَا أَصْحَابَ الصَّوَامِعِ.

رَوَاهُ أَحْمَدُ وَابْنُ أَبِي شَيْبَةَ وَأَبُو يَعْلَى.

32/8. Ibn 'Abbās ؓ reported:

¹ Set forth by •Aḥmad b. anbal in *al-Musnad*, 3:435 §15626-15627. •al-Bayhaqī in *al-Sunan al-kubrā*, 9:77 §17868.

“While dispatching the troops, the Messenger of Allah ﷺ used to give the instructions: ‘Depart in the name of Allah. You are going to fight with infidels in the way of Allah; do not break a promise or a treaty; do not steal from the spoils of war; do not mutilate the bodies; and do not slay children and monks.’”¹

Reported by Aḥmad, Ibn Abī Shayba and Abū Ya‘lā.

٩/٣٣. وَفِي رِوَايَةٍ عَنْهُ قَالَ: إِنَّ النَّبِيَّ ﷺ كَانَ إِذَا بَعَثَ جُيُوشَهُ قَالَ: لَا تَقْتُلُوا أَصْحَابَ الصَّوَامِعِ.

رَوَاهُ ابْنُ أَبِي شَيْبَةَ وَالطَّحَاوِيُّ وَالدَّيْلَمِيُّ.

33/9. Ibn ‘Abbās ؓ has reported:

“The Prophet ﷺ would enjoin as he dispatched an army: ‘Do not kill those (priests) who tend to monasteries.’”²

Reported by Ibn Abī Shayba, al-Ṭaḥāwī and al-Daylamī.

١٠/٣٤. وَفِي رِوَايَةٍ عَنْ عَلِيِّ بْنِ أَبِي طَالِبٍ ؓ قَالَ: كَانَ نَبِيُّ اللَّهِ ﷺ إِذَا بَعَثَ جَيْشًا مِنَ الْمُسْلِمِينَ إِلَى الْمُشْرِكِينَ قَالَ: انْطَلِقُوا بِاسْمِ اللَّهِ فَذَكَرَ الْحَدِيثَ وَفِيهِ وَلَا تَقْتُلُوا وَلِيدًا طِفْلًا، وَلَا امْرَأَةً، وَلَا شَيْخًا كَبِيرًا، وَلَا تَغُورَنَّ عَيْنًا، وَلَا تَعْفُرَنَّ شَجَرَةً إِلَّا شَجَرًا يَمْنَعُكُمْ قِتَالًا أَوْ يَحْجُزُ بَيْنَكُمْ وَبَيْنَ الْمُشْرِكِينَ، وَلَا تُمَثِّلُوا بِأَدْمِيٍّ وَلَا بِبَهِيمَةٍ، وَلَا تَغْدِرُوا وَلَا تَغْلُوا.

رَوَاهُ الْبَيْهَقِيُّ وَذَكَرَهُ الْهَنْدِيُّ.

34/10. ‘Alī b. Abī Ṭālib ؓ said that when the Prophet ﷺ dispatched

¹ Set forth by •Aḥmad b. anbal in *al-Musnad*, 1:300 §2728. •Ibn Abī Shayba in *al-Muṣṣannaḥ*, 6:484 §33132. •Abū Ya‘lā in *al-Musnad*, 4:422 §2549. Cited by •Ibn Rushd in *Bidāya al-mujtahid*, 1:281.

² Set forth by •Ibn Abī Shayba in *al-Muṣṣannaḥ*, 6:484 §33132. •Abū Ya‘lā in *al-Musnad*, 5:59 §2650. •al-Ṭaḥāwī in *Sharḥ ma‘ānī al-āthār*, 3:225. •al-Daylamī in *Musnad al-firdaws*, 5:45 §7410.

the Muslim army towards the pagans, he would advise them to proceed in the name of Allah and then enjoin:

“Do not kill a young boy, a woman or an old man. Do not cause fountains to dry up and do not destroy any trees, except those that cause hindrance during war. Mutilate neither a human nor an animal, and do not break a promise or breach a trust.”¹

Reported by al-Bayhaqī and cited by al-Hindī.

١١/٣٥. عَنْ أَنَسِ بْنِ مَالِكٍ أَنَّ رَسُولَ اللَّهِ ﷺ قَالَ: وَلَا تَقْتُلُوا شَيْخًا فَانِيًا وَلَا طِفْلًا وَلَا صَغِيرًا وَلَا امْرَأَةً.
رَوَاهُ أَبُو دَاوُدَ وَابْنُ أَبِي شَيْبَةَ وَابْنُ أَبِي حَتْمٍ.

35/11. Anas b. Mālik رضي الله عنه related that Allah's Messenger ﷺ said:

“Do not kill any infirm old man, or any infant or young child or woman.”²

Reported by Abū Dāwūd, Ibn Abī Shayba and al-Bayhaqī.

١٢/٣٦. وَفِي رِوَايَةٍ رَأْسِدِ بْنِ سَعْدٍ قَالَ: نَهَى رَسُولُ اللَّهِ ﷺ عَنْ قَتْلِ النِّسَاءِ وَالذَّرِّيَةِ وَالشَّيْخِ الْكَبِيرِ الَّذِي لَا حِرَاكَ بِهِ.
رَوَاهُ ابْنُ أَبِي شَيْبَةَ.

36/12. Rāshid b. Sa'd narrated:

“The Messenger of Allah ﷺ forbade the killing of women, children and the debilitated and infirm old man.”³

Reported by Ibn Abī Shayba.

¹ Set forth by •al-Bayhaqī in *al-Sunan al-kubrā*, 9:90 §17934. Cited by •al-Hindī in *Kanz al-ummāl*, 4:205 §11425.

² Set forth by •Abū Dāwūd in *al-Sunan: Kitāb al-jihād* [The Book of Jihad], 3:37 §2614. •Ibn Abī Shayba in *al-Muṣannaf*, 6:483 §33118. •al-Bayhaqī in *al-Sunan al-kubrā*, 9:90 §17932.

³ Set forth by •Ibn Abī Shayba in *al-Muṣannaf*, 6:483 §33135.

١٣/٣٧. وَفِي رِوَايَةِ ابْنِ كَعْبٍ بْنِ مَالِكٍ رضي الله عنه أَنَّ النَّبِيَّ ﷺ حِينَ بَعَثَ إِلَى ابْنِ أَبِي حَقِيقٍ، نَهَى حِينَئِذٍ عَنْ قَتْلِ النِّسَاءِ وَالصِّبْيَانِ.
رَوَاهُ عَبْدُ الرَّزَّاقِ وَالشَّافِعِيُّ وَالطَّحَاوِيُّ وَالْبَيْهَقِيُّ.

37/13. Ibn Ka'b b. Mālik رضي الله عنه narrated:

"When the Prophet ﷺ dispatched an army to Ibn Abī aqīq, he forbade the killing of women and children."¹

Reported by 'Abd al-Razzāq, al-Shāfi'ī, al-Ṭahāwī and al-Bayhaqī.

١٤/٣٨. وَفِي رِوَايَةِ عَطِيَّةِ الْقُرْظِيِّ قَالَ: كُنْتُ فِيْمَنْ حَكَمَ فِيْهِمْ سَعْدُ بْنُ مُعَاذٍ، فَشَكُّوا فِي: أَمِنَ الذَّرِّيَّةُ أَنَا أَمْ مِنَ الْمُقَاتِلَةِ؟ فَنَظَرُوا إِلَى عَانَتِي فَلَمْ يَجِدُوهَا نَبَتًا، فَأُلْقِيَتْ فِي الذَّرِّيَّةِ، وَلَمْ أُقْتَلْ.

رَوَاهُ ابْنُ حِبَّانَ وَعَبْدُ الرَّزَّاقِ وَالطَّبْرَانِيُّ وَالْبَيْهَقِيُّ.

38/14. According to 'Aṭīya al-Qurazī رضي الله عنه:

"I was amongst those judged by Sa'd b. Mu'ādh [when he was given the authority to decide the fate of the plotters of Banū Qurayẓa], but they were in doubt about me—was I to be counted amongst the children or amongst those who engaged in hostilities?—so, to find the answer, they examined my pubic regions and saw that I had yet to grow pubic hair [and thus was underage], so they grouped me with the children and I was spared."²

¹ Set forth by •'Abd al-Razzāq in *al-Muṣannaf*, 5:202 §9385. •al-Shāfi'ī in *al-Musnad*, p. 238. •al-Ṭahāwī in *Sharḥ ma'ānī al-āthār*, 3:221. •al-Bayhaqī in *al-Sunan al-kubrā*, 9:77 §17865.

² Set forth by •Ibn Hibbān in *al-Ṣaḥīḥ: Kitāb al-siyar* [The Book of Military Expeditions], chapter: "An assertive act of resistance against the head of the state and the method of jihad," 11:109 §4788. •'Abd al-Razzāq in *al-Muṣannaf*, 10:179 §18742. •al-Ṭabarānī in *al-Mu'jam al-kabīr*, 17:164 §434. •al-Bayhaqī in *al-Sunan al-kubrā*, 6:166 §11098.

Reported by Ibn Hibbān, 'Abd al-Razzāq, al-Ṭabarānī and al-Bayhaqī.

١٥/٣٩. وَفِي رِوَايَةٍ عَنْ أَبِي ثَعْلَبَةَ الْحُسَيْنِيِّ قَالَ: نَهَى رَسُولُ اللَّهِ ﷺ عَنْ قَتْلِ
النِّسَاءِ وَالْوِلْدَانِ.
رَوَاهُ الطَّبْرَانِيُّ.

39/15. Abū Tha'laba al-Khushanī reported:

"The Messenger of Allah ﷺ prohibited the killing of women and children."¹

Reported by al-Ṭabarānī.

• قَالَ الْإِمَامُ السَّرْحِيُّ فِي كِتَابِهِ الْمَشْهُورِ «الْمَبْسُوطِ»: قَالَ ﷺ: وَلَا
تَقْتُلُوا وَلِيدًا وَالْوَلِيدُ الْمَوْلُودُ فِي اللُّغَةِ وَكُلُّ أَدَمِيٍّ مَوْلُودٌ، وَلَكِنَّ هَذَا
الْلَفْظُ إِنَّمَا يُسْتَعْمَلُ فِي الصَّغَارِ عَادَةً. فَفِيهِ دَلِيلٌ عَلَى أَنَّهُ لَا يَحِلُّ قَتْلُ
الصَّغَارِ مِنْهُمْ، إِذَا كَانُوا لَا يُقَاتِلُونَ. وَقَدْ جَاءَ فِي الْحَدِيثِ أَنَّ النَّبِيَّ
ﷺ نَهَى عَنْ قَتْلِ النِّسَاءِ وَالْوِلْدَانِ. وَقَالَ: اقْتُلُوا شُيُوخَ الْمُشْرِكِينَ،
وَاسْتَحْيُوا شُرُوحَهُمْ. وَالْمُرَادُ بِالشُّيُوخِ الْبَالِغُونَ وَبِالشُّرُوحِ،
الْأَتْبَاعُ مِنَ الصَّغَارِ وَالنِّسَاءِ، وَالْإِسْتِحْيَاءُ الْإِسْتِرْقَاقُ. قَالَ اللَّهُ:
﴿أَسْتَحْيُوا نِسَاءَهُمْ﴾. وَفِي وَصِيَّةِ أَبِي بَكْرٍ ﷺ لِزَيْدِ بْنِ أَبِي سُفْيَانَ:
لَا تَقْتُلْ شَيْخًا ضَرَعًا وَلَا صَبِيًّا ضَعِيفًا، يَعْنِي شَيْخًا فَانِيًا وَصَغِيرًا لَا
يُقَاتِلُ.

Regarding the prohibition of killing non-Muslim women, children and elderly folk during war, the eminent Ḥanafī jurist Imam al-Sarakhsī wrote in his magnum opus, *al-Mabsūt*:

¹ Set forth by al-Ṭabarānī in *al-Mu'jam al-awsaṭ*, 7:113 §7011.

The Prophet ﷺ said: "Do not kill children [*walīd*]." In the [Arabic] language, the word *walīd* means the one who is born [*mawlūd*]; and every human being [*ādamī*] is born. However, customarily this word is only used for young children. Therefore, it proves that it is impermissible to kill the young children amongst them [the non-Muslims], as long as they are not fighting. It is mentioned in a hadith that the Prophet ﷺ forbade the killing of women and children, and said: "Kill the [warring] elders of the pagans [during war] and keep alive their subordinates." The "elders" refer to the adults amongst them, and the "subordinates" signify their followers amongst the young and the womenfolk. To "keep alive" here means to take them as captives. Allah says, *And they kept their women alive*.¹ And it is mentioned in Abū Bakr's ﷺ dictated commands to Yazīd b. Abī Sufyān: "Kill neither a feeble old man nor a fragile young child"—in other words, an elderly man and a young child do not fight.²

¹ Qur'ān 40:25.

² •Al-Sarakhsī, *al-Mabsūt*, 10:5-6.